

REMARKS

Claims 2-6, 8-20 and 26-34 were noted in the aforesaid Office Action as pending and acted upon. No new claim has been added and claims 2, 3, 5 and 11 have been canceled herein, leaving claims 4, 6, 8-10, 12-20 and 26-34 for further consideration.

As noted above, claims 2 and 3 have been canceled.

Claim 4 was objected to, but deemed to contain allowable matter. Claim 4 depended from claim 3, which depended from claim 2. Claim 4 has been amended to include the matters of claims 2 and 3. Accordingly, it appears that claim 4 is now in allowable condition.

As noted above, claim 5 has been canceled.

Claim 6 has been amended to depend from claim 4 and would therefore appear to be allowable, at least through dependency.

Claim 8 was rejected as anticipated by USP 6,387,129, issued to Rieser et al., in large measure because of the claim 8 limitation to "a generally planar end surface" which appears to have been deemed broad enough to read on a less than totally planar end surface of the Rieser device. Claim 8 has been amended to define the proximal end of the fixation screw as "comprising an annular end surface entirely disposed in a single plane" (emphasis added).

As noted by Examiner, FIG. 3 shows a back end (26) of the Rieser fixation screw having two planar surfaces, a larger planar surface and a smaller planar surface, the two surfaces intersecting at point (26). Examiner's position was that the two surfaces together formed a "generally planar surface". The above quoted amendment, limiting the Applicant's device to having a

proximal end comprising an annular surface entirely disposed in a single plane, distinguishes from the prior art device shown in FIG. 3 of Rieser.

The Examiner has further noted that Rieser et al. fail to describe the smaller surface and that perhaps the smaller surface was drawn in error. In col. 4, ll. 7-12, no mention is made of the smaller end surface, as noted by Examiner.

However, in col. 3, line 59, reference is made to the back end (8) of the screw, referring to FIG. 1. In FIG. 1, the smaller surface is labeled (8) and there is an additional smaller surface diametrically disposed relative to surface (8), which is not numbered. It appears that smaller surface (8) extends all the way around the screw of FIG. 1 and part way around the screw of FIG. 3. At any rate, it appears that the "smaller surface" is a structural reality in the Rieser device which is defined around by amended claim 8.

In view thereof, allowance of claim 8 appears to be in order and is respectfully requested.

Claim 9 depends from claim 8 and therefore appears to be allowable, at least through dependency.

Claim 10 was objected to, but deemed to include allowable matter. Claim 10 depended from claim 9, which depended from claim 8. Claim 10 has been amended to include the matters of old claims 8 and 9 and therefore is believed to be in allowable condition.

As noted above, claim 11 has been canceled.

Claim 12 has been amended to depend from claim 10, which was found to contain allowable matter. Accordingly, it is believed that claim 12 is now allowable, at least through dependency.

Claim 13 was rejected on the same grounds as claim 8 and has

been similarly amended. Further minor amendments have been entered in claim 13 to improve form.

Claim 14 depends from claim 13 and would appear to be allowable at least by virtue of dependency.

Claims 15-20 stand allowed.

Claims 21-25 have been canceled.

Claim 26 was rejected as anticipated by Rieser and has been amended similarly as claims 8 and 13.

Claim 27 stands rejected as unpatentable over Rieser et al. in view of Sutter et al. Claim 27 has been amended similarly to claims 8, 13 and 26.

Claim 28 stands allowed.

Claim 29 was rejected as anticipated by Rieser et al. and has been amended similarly as in 8, 13, 26, 27.

Claim 30 stands rejected as unpatentable over Rieser et al. in view of Sutter et al. Again, the claim has been amended similarly to claims 8, 13, 26 and 27.

Claim 31 stands allowed.

Claim 32 stands rejected as anticipated by Rieser et al. and claim 33 stands rejected as unpatentable over Rieser et al. in view of Sutter et al. Claims 32 and 33 have been amended similarly to claim 8.

Claim 34 stands allowed.

Claims 5, 11, 13 and 14 have been rejected under 35 U.S.C. 112. Claims 5 and 11 have been canceled. In claim 13 the language defining the distal end portion as generally conically-shaped has been deleted. Claim 14 depends from claim 13. Accordingly, it appears that the 112 rejection can be vacated.

In summary, allowance of claims 4, 6, 8-10, 12-14, 26, 27, 29, 30, 32 and 33, along with previously allowed claims 15-20, 28, 31 and 34, is most respectfully requested.

In the event that any additional fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Respectfully submitted,



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